

1st Reading, October 16, 2017
1st Reading, as Amended, November 6, 2017
2nd Reading, as Amended, November 20, 2017
3rd Reading, as Amended, December 4, 2017

Sponsored / Introduced by: Mayor Britton

ORDINANCE NO. 33 - 2017
(As Amended)

AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH THE BOARD OF LAKE COUNTY COMMISSIONERS FOR THE TRANSFER OF THE VILLAGE MUNICIPAL SANITARY SEWER SYSTEM TO THE LAKE COUNTY DEPARTMENT OF UTILITIES, AND FOR THE AWARD OF AND ASSUMPTION BY THE LAKE COUNTY DEPARTMENT OF UTILITIES AN EXCLUSIVE FRANCHISE WITHIN THE VILLAGE OF MADISON.

WHEREAS, the Village is the owner of a municipal sanitary sewer system (the "Village Sanitary System") which collects for treatment waste waters from approximately 1,400 customers within and without its municipal boundaries, and

WHEREAS, Lake County, Ohio owns and operates a regional sanitary sewer system, including waste treatment plants, (the "County Sanitary System") serving customers within its service district(s), and

WHEREAS, The County Sanitary System realizes economies of scale which result in current service costs to its customers as follows:

\$2.76 per unit

The average residential household's monthly cost for County sanitary sewer service is therefore calculated as \$25.83 (as of 07/01/2017) based upon an average up to 9.35 units of monthly discharge.¹

1.4 The Village's lack of such economies of scale result in current service costs to its customers as follows:

\$5.62 per unit;

¹ LCDU uses a quarterly flat rate of \$77.49 which covers up to 28.05 units of discharge. The metered rate is \$3.66 per 1,000 gallons (1.33 units).

Fixed System Access Charge = \$5.62 monthly / account; and
CIF charge = \$10.00 monthly / account

The average residential household's monthly cost for Village sanitary sewer service is \$38.10 (as of 07/01/2017) based upon an average of 4 units of monthly discharge.

1.5 The Village projects that unit costs to its customers will rise by 2% / year on average with County projections also being that unit costs to its customers will rise by 2% / year on average. The Village projects the CIF charge will increase to \$60.60 within 10 years. These projections equate to the average residential household's monthly cost for Village sanitary sewer service being \$85.25 in 10 years while the County sanitary sewer service customers cost would be \$31.49 (based upon an average 4 units of monthly consumption).

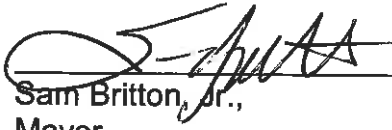
WHEREAS, the Village recognizes that the costs detailed herein above are not sustainable. It seeks to provide for the long-term stability of the management, operations, and costs of the Village Sanitary System, and, recognizes that its continued ownership of same is an impediment to those goals. The Village further recognizes that the long-term costs associated with continued ownership and operation of the Village Sanitary System will result in costs to its customers greatly in excess of geographically similarly situated customers given that it has no economically viable path to control sewer collection rates and related system charges due to (i) the limited customer base served by the Village Sanitary System and (ii) the costs associated to maintain and upgrade the system, including significant upgrades to the its Waste Water Treatment Plant. The Mayor and Council of the Village of Madison accordingly have sought options to prevent these adverse effects from becoming a detriment to its citizens and to the Village's broader economic health.

WHEREAS, the Village, acting pursuant to its plenary power conferred by Article XVIII, § 4 of the Ohio Constitution and its Home Rule powers conferred by Article XVIII, § 3 of the Ohio Constitution desires to divest itself of the Sanitary Sewer System via merger and transfer of its assets to the County via permanent grant of a franchise.

WHEREAS, the Village finds that an outright sale for cash of the Village Sanitary Sewer System is a futile endeavor to accomplish its goals herein set forth as (i) there are no investor-owned wastewater utilities being operated in the Village's geographic area, (ii) such a utility would by law be permitted to realize a profit on its operations and would accordingly not be able to provide services at rates competitive to a publicly-owned utility, (iii) existing debt obligations (ODWA loan #2327 in the principal amount of \$86,238.00, ODWA loan #3223 in the principal amount of \$95,625.00, and ODWA loan #4409 in the principal amount of \$572,160.00) must be assumed by any purchaser unless first retired, and (iv) the capital investment in an upgraded Waste Water Treatment Plant once passed on to Village customers would dramatically increase cost of services and be an economic detriment to them and to the Village's growth, development, jobs and population retention.

Approved:

Date: 12-4-17



Sam Britton, Jr.,
Mayor

WHEREAS, the Council now desires to enter into the Sanitary Transfer Agreement and to award to Lake County a permanent and exclusive franchise within the municipal boundaries.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF MADISON, COUNTY OF LAKE, STATE OF OHIO, THAT:

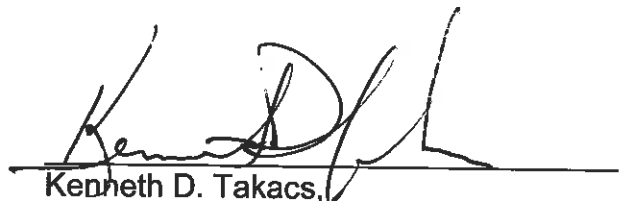
SECTION 1. The Mayor is authorized to sign the agreement with the Lake County Board of Commissioners attached hereto as Exhibit 1, the "Sanitary Transfer Agreement," and incorporated herein by this reference and to perform all actions in furtherance of said Agreement.

SECTION 2. In accordance with the terms and conditions set forth in the Sanitary Transfer Agreement on the Closing Date defined and ascertained pursuant to said Agreement's terms, the Board of County Commissioners of Lake County, Ohio and its Department of Utilities, is hereby granted a permanent and exclusive franchise within the municipal boundaries of the Village of Madison for the provision of sanitary sewer services, to own and operate the Sanitary System within the Village municipal boundaries under the same rates, charges, fees, terms, and conditions of service as it provides such services to its system-wide customers, and to operate Sanitary System Assets within all public rights-of-way and to expand same as necessary.

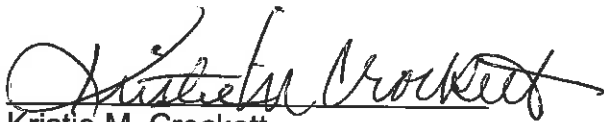
SECTION 3. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including §121.22 of the Ohio Revised Code.

SECTION 4. That this Ordinance shall take effect and be in full force at the earliest time provided by Ohio law.

PASSED: December 4, 2017


Kenneth D. Takacs,
President of Council

Attested:


Kristie M. Crockett,
Fiscal Officer / Clerk of Council